

FILED

SEP 08 2013

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 THOMAS R. BURKE (CA State Bar No. 141930)
2 DAVIS WRIGHT TREMAINE LLP
3 505 Montgomery Street, Suite 800
4 San Francisco, California 94111
5 Telephone: (415) 276-6500
6 Facsimile: (415) 276-6599
7 E-mail: thomasburke@dwt.com

8 STEPHEN M. RUMMAGE (*admitted pro hac vice*)
9 KENNETH E. PAYSON (*admitted pro hac vice*)
10 JOHN A. GOLDMARK (*admitted pro hac vice*)
11 DAVIS WRIGHT TREMAINE LLP
12 1201 Third Avenue, Suite 2200
13 Seattle, Washington 98101-3045
14 Telephone: (206) 622-3150
15 Fax: (206) 757-7700
16 E-mail: steverummage@dwt.com
17 kenpayson@dwt.com
18 johngoldmark@dwt.com

19 *Attorneys for Clearwire Corporation, Clearwire*
20 *Communications LLC and Clear Wireless LLC*

21 UNITED STATES DISTRICT COURT
22 NORTHERN DISTRICT OF CALIFORNIA

23 RICHARD WUEST, individual and on behalf of
24 a class of similarly situated individuals,

25 Plaintiffs,

26 v.

27 CLEARWIRE CORPORATION; CLEARWIRE
28 COMMUNICATIONS LLC; CLEAR
WIRELESS LLC; ADITYA BIRLA MINACS
WORLDWIDE, INC., NCO CUSTOMER
MANAGEMENT, INC., and DOES 1 through
10, inclusive,

Defendants.

Case No. C12-05061-JST

STIPULATED MOTION TO VACATE
SETTLEMENT CONFERENCE

29 The parties to this action, through their undersigned counsel, hereby stipulate and jointly
30 move this Court for an Order vacating the Settlement Conference now scheduled before
31 Magistrate Judge Spero for September 26, 2013. In support of this Stipulated Motion, the parties

1 agree and jointly represent to the Court as follows:

2 1. On January 17, 2013, the Court held a Case Management Conference ("CMC").
3 At the CMC, Judge Allsup set a deadline of June 20, 2013, for Plaintiff's class certification
4 motion and set this matter for trial on March 31, 2014. *See* Dkt. 27. The Court further referred
5 that matter to Magistrate Judge Spero for mediation/settlement. *Id.*

6 2. On January 28, 2013, Plaintiff and the Clear Defendants participated in a
7 scheduling conference with Magistrate Judge Spero. Based on the schedule Judge Allsup set at
8 the CMC, and the anticipation that Plaintiff's class certification motion would be decided by the
9 end of August 2013, Magistrate Judge Spero set a Settlement Conference for September 12, 2013.
10 *See* Dkt. 32. (A few months later, Magistrate Judge Spero *sua sponte* and for unstated reasons re-
11 set the Settlement Conference to September 26, 2013. *See* Dkt. 40.)

12 3. On February 11, 2013, the matter was reassigned to the Honorable Jon S. Tigar for
13 all further proceedings. *See* Dkt. 35. Shortly thereafter, the Court entered an Order Re-setting
14 Deadlines, which rescheduled the deadline for Plaintiff to file a class certification motion to
15 October 10, 2013. Dkt. 37. The Court further stated that it "expect[ed] to set other deadlines in
16 the case after conducting a Case Management Conference." *Id.*

17 4. On June 21, 2013, the Court entered an Order Granting Motion to Amend the
18 Complaint, allowing Plaintiff to amend his complaint to name two new defendants, i.e., Aditya
19 Birla Minacs Worldwide, Inc., and NCO Customer Management, Inc. *See* Dkt. 45. After the
20 filing of Plaintiff's First Amended Complaint, the Court set a CMC for September 11, 2013.
21 Based on the Order Continuing Case Management Conference, Dkt. 54, the parties anticipate the
22 Court will set a new schedule at the CMC set for September 11, 2013.

23 5. Based on the foregoing, the parties respectfully request that the Court vacate the
24 September 26, 2013, Settlement Conference. The parties further respectfully request that the
25 Court at the CMC address the deadline for any settlement conference or mediation, pursuant to
26 the Case Management Statement filed on August 28, 2013.

1 STIPULATED AND AGREED this 5th day of September, 2013.

2 **KELLER GROVER LLP**

3
4 By: /s/ Carey G. Been

5 ERIC A. GROVER

6 CAREY G. BEEN

7 *Attorneys for Plaintiff*

8 **DAVIS WRIGHT TREMAINE LLP**

9
10 By: /s/ Stephen M. Rummage

11 STEPHEN M. RUMMAGE

12 THOMAS R. BURKE

13 KENNETH E. PAYSON

14 JOHN A. GOLDMARK

15 *Attorneys for Defendants Clearwire Corporation,*
16 *Clearwire Communications LLC, Clear Wireless*
17 *LLC*

18 **SESSIONS FISHMAN, NATHAN & ISRAEL,**
19 **L.L.P.**

20
21 By: /s/ Albert R. Limberg

22 ALBERT R. LIMBERG

23 *Attorneys for Defendant APAC Customer*
24 *Services, Inc., f/k/a NCO Customer Management,*
25 *Inc.*

26 **GORDON & REES LLP**

27
28 By: /s/ Andrew D. Castricone

ANDREW D. CASTRICONE

Attorneys for Defendant Aditya Birla Minacs
Worldwide, Inc., specially appearing herein

ORDER

IT IS SO ORDERED.

The Settlement Conference currently scheduled for September 26, 2013, is hereby stricken. The Court will set a deadline for a settlement conference/mediation in conjunction with the upcoming Case Management Conference currently scheduled for September 11, 2013.

DATED: September 6, 2013



JON S. TIGAR
UNITED STATES DISTRICT JUDGE